

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.02.2017

CORAM

THE HON'BLE MR.SANJAY KISHAN KAUL, CHIEF JUSTICE
AND
THE HON'BLE MR.JUSTICE M.SUNDAR

W.P.No.12652 of 2008

Backiammal Alias Duraibackiammal
Hereditary Trustee
C/o.Om Sakthi Mariammam Temple
58, Armenian Street
Chennai - 600 001.

... Petitioner

Vs.

1. The Commissioner
Hindu Religious and Charitable
Endowments Board
Nungambakkam, Chennai - 600 034.
2. The Commissioner
Corporation of Chennai
Ripon Buildings, Chennai - 600 003.
3. The Junior Engineer
Corporation of Chennai
Division 28, Zone II
Old No.182 (New No.302)
Chennai - 600 001.

... Respondents

PRAYER: Petition under Article 226 of the Constitution of India seeking issuance of a writ of Mandamus directing respondents 1 and 2 to forbear from demolishing the Om Sakthi Mariammam Temple functioning at No.58, Armenian Street, Chennai-600 001, which is being run by the petitioner as Hereditary Trustee.

For Petitioner

: Mr.Ashok Menon

For Respondents

: Mr.M.Maharaja
Special Government Pleader
for 1st respondent

Mr.B.B.Senthil Kumar
for respondents 2 and 3

ORDER

(Order of the Court was made by the Hon'ble Chief Justice)

The petitioner claims that her late husband and she had constructed Om Sakthi Mariamman Temple at the corner of the Armenian Street and NSC Bose Road, which is outside No.58, Armenian Street, in the year 1965 with thatched shed and a permanent structure was put up in the year 1968. The temple is stated to be visited by a number of devotees. The temple is stated to be not causing any disturbance or obstruction. However, on 15.5.2008, employees from the respondent Corporation are stated to have visited the site threatening to demolish the temple. She consequently filed the present writ petition.

2. The learned counsel for the petitioner sought to contend that in W.P.No.20192 of 2008, allegation was made about another temple at N.S.C. Bose Road in front of the High Court and Armenian Street and that temple is stated to have been since removed and the threatened action of the respondent Corporation is stated to be under a mistaken belief that the present temple was also covered by the proceedings in those writ petition.

3. We are, however, informed by the learned counsel for the Corporation that the aforesaid is not the correct position and a notice dated 3.5.2008 under Section 220 of the Madras City Municipal Corporation Act IV of 1919 was served on the petitioner. Another letter produced before us dated 8.6.2009 by the very counsel for the petitioner to the respondent Corporation refers to some other notice received by the petitioner dated 6.2.2009.

4. The fact of the matter is that the stand qua the temple on behalf of the petitioner is reflected in the reply dated 8.6.2009. It would thus be appropriate that the Corporation considers the reply sent by the petitioner and take a final view of the matter based on the said reply. We may, however, note that though in the reply there is a reference to the present writ petition, that would not be an impediment now as we are disposing of the writ petition in view of the aforesaid facts recorded.

The petition, accordingly, stands disposed of. No costs.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

sasi

To:

1. The Commissioner
Hindu Religious and Charitable
Endowments Board
Nungambakkam
Chennai - 600 034.

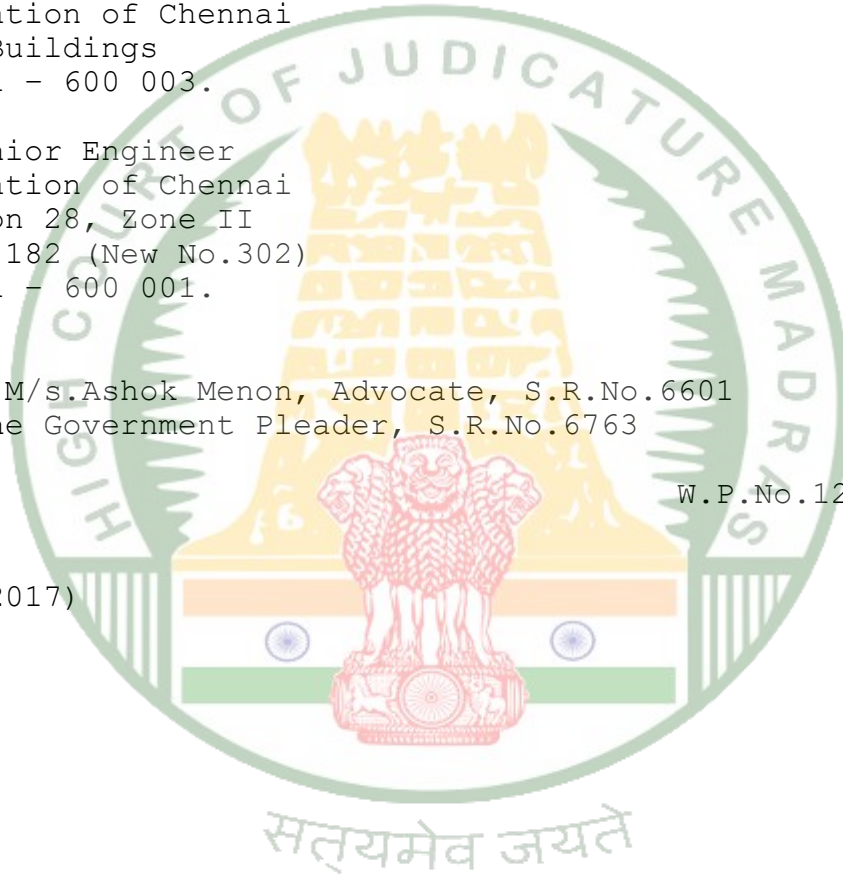
2. The Commissioner
Corporation of Chennai
Ripon Buildings
Chennai - 600 003.

3. The Junior Engineer
Corporation of Chennai
Division 28, Zone II
Old No.182 (New No.302)
Chennai - 600 001.

+2cc's to M/s.Ashok Menon, Advocate, S.R.No.6601
+1cc to the Government Pleader, S.R.No.6763

W.P.No.12652 of 2008

UG(CO)
CA(13/02/2017)



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